



Proposed Regulation Agency Background Document

Agency name	Department of Human Resource Management
Virginia Administrative Code (VAC) citation	1 VAC 55 -20
Regulation title	Department of Human Resource Management
Action title	This action will amend section 1VAC 55 320(E) to include adults, other than spouses and incapacitated adult children, as other participants to the Health Benefits Plan for State Employees.
Date this document prepared	December 23, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

Enter statement here:

Currently, only classified employees, their spouses and dependent children have access to coverage through the Health Benefits Plan for State Employees. The intent of this amendment is to assist employees in providing health coverage to other adult individuals who reside in their home, but are not eligible for the Health Benefits Plan for State Employees. The amendments to these regulations allow only one adult per dependent unit. Thus, if the employee covers a spouse, the adult maximum allowed by these regulations has been met, and the employee can not cover any other adults.

Furthermore, unmarried children of an Other Qualified Adult (OQA) living with the employee in a parent-child relationship will be considered an eligible dependent as defined by this amendment. However, these children may not be covered as a dependent unless their principal place of residence is with the employee, and the child is a member of the employee's household. The child must receive over one-half of his support from the employee.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Incapacitated child is a former covered dependent who has reached the plan's limiting age, but who is incapable of self support. Such child must live at home with the employee as a member of the employee's household, and be approved by the plan.

Other Qualifying Adult (OQA) is any adult who lives with the employee and is eligible to be covered by the employee. Such adult may be, but is not limited to a same- or opposite-sex domestic partner, parent or sibling.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 2.2-2818 of the Code of Virginia authorizes the Department of Human Resource Management (DHRM) to establish a plan for providing health benefits to state employees and their dependents.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The intent of this amendment is to assist employees in providing health coverage to OQAs who reside in their home, but are not eligible for the Health Benefits Plan for State Employees. These regulations would allow an employee to cover up to one OQA. If the employee covers a spouse, then the employee has met the adult maximum allowed by these regulations, and can not cover any other adults. Additionally, children of such adults may be covered if they meet the criteria listed under stepchild found in section 320.

Employees are seeing an increasing burden to provide for the health coverage of other adult individuals residing in their home, and the dependents of those other adults who otherwise meet eligibility requirements, but are not covered by the Health Benefits Plan for State Employees.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

Currently only classified employees, their spouses and dependent children have access to coverage through Health Benefits Plan for State Employees. The intent of this amendment is to assist employees in providing health coverage to other adults who reside in their home, but are not eligible for the Health Benefits Plan for State Employees. The amendments to these regulations allow only one adult per dependent unit. Thus, if the employee covers a spouse, then the employee has met the adult maximum allowed by these regulations, and cannot cover any other adults.

The OQA at the time of proposed enrollment must be at least 19 years of age and must have shared primary residency with the employee for the previous 12 continuous months. If the 12 month residency requirement is broken, then a new 12 month continuous residency requirement must be established. Renters, boarders, tenants and employees of anyone who lives in the household are not eligible regardless of residency status.

Employees will be required to complete an affidavit confirming eligibility of the OQA.

Furthermore, unmarried children of an OQA living with the employee in a parent-child relationship will be considered eligible dependents as defined by this amendment. However, these children may not be covered as a dependent unless their principal place of residence is with the employee, and the child is a member of the employee's household. The child must receive over one-half of his support from the employee or OQA. Also, if the biological parents are divorced, the support test is met if a natural or adopted child receives over one-half of his support from either parent or the OQA or in any combination of parents and OQA.

Issues

- Please identify the issues associated with the proposed regulatory action, including:*
- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

There should be no advantages, or disadvantages imposed on the public by these amendments.

The primary advantages for the Commonwealth are 1) to assist state agencies and institutions of higher learning in the recruitment of more qualified candidates for employment; and 2) ease the burden on employees who are required to provide for the health coverage of other adult individuals residing in their home.

The primary disadvantage to these amendments is that including Other Qualified Adults might have an adverse experience impact on the plan, resulting in higher cost to employees and their agencies.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

None of these amendments contain provisions that are more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other lo

Municipalities and school boards who participate in the local choice program will encounter the advantages and disadvantages referenced in the section titled Issues.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to Charles Reed, Department of Human Resource Management, 101 N. 14th Street, Richmond, VA 23219, charles.reed@dhrm.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.}

A public hearing will not be held.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) Fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>There should be little if any cost due to this regulatory change. Other Qualified Adults will bear the entire cost of the coverage, including claim and administrative costs. However, the plan may experience some adverse experience due to the enrollment of OQAs which over time could result in increased cost to the plan.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>There should be little if any cost due to this regulatory change. Other Qualified Adults will bear the entire cost of the coverage, including claim and administrative costs. However, the plan may experience some adverse experience due to the enrollment of OQAs which over time could result in increased cost to the plan.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>The employees of the State along with the Health Benefits Plan for State Employees; employees of municipalities and school boards enrolled in The Local Choice Program; and The Local Choice Program will be affected by this change.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The Health Benefits Plan for State Employees and the 220 school boards and municipalities enrolled in The Local Choice Program will be affected by this change.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Estimated costs will include:</p> <p><u>Implementation costs</u></p> <ul style="list-style-type: none"> • Systems and payroll changes - \$50,000 • Actuarial services - \$50,000 • Communications - \$50,000 <p><u>On-going costs (annual)</u></p> <ul style="list-style-type: none"> • Plan administration - \$50,000 • Actuarial services - \$30,000 • Communications - \$10,000 • FICA tax for after tax premium
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The change is designed to increase access to health care coverage for dependents of state and local government employees.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Enter statement here: National Health Care.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Not applicable.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
	<p>The comments were evenly divided among those who were vehemently opposed to the change due to potential cost to the taxpayer, invasiveness of government, and calling the amendment unconstitutional.</p> <p>Others felt that the change was long overdue, a matter of fairness and equity, and that health care coverage needs to be expanded. Many of the commenters felt that the current plan discriminated against couples of the same sex.</p>	<p>The change is intended to be cost-neutral to the state with the employee paying the full cost of covering an OQA. The change is not an example of invasiveness of government, but rather provides employees an opportunity to provide health coverage for eligible adults residing in their home. And a review of the Constitution of Virginia indicates the change is not in conflict with language addressing marriages valid in or recognized in Virginia.</p>

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This amendment should have little impact on the family, or family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
320 (E)		Defines coverage criteria for dependents of employees. Currently, such coverage is reserved for a spouse legally recognized in the state of Virginia and children.	Broadens coverage to include Other Qualifying Adult (OQA) and their children as dependents of the plan. An OQA is at least 19 years of age and has shared primary residence with the employee for the previous 12 continuous months. Employee can either cover a spouse or an OQA, but not both.

1VAC55-20-350.		Defines types of memberships as single, dual, and family.	Expands the types of membership to include Single Plus (employee and Other Qualifying Adult), Dual Plus (employee and one eligible dependent child and Other Qualifying Adult), and Family Plus (employee and two or more eligible dependents and Other Qualifying Adult).
1VAC55-20-160		Establishes contribution rates and claim pools.	Expands claim pools to include OQAs, and incorporates the rule that the employee is responsible for the entire cost of covering OQA and their children.

For new chapters, use this chart: None

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
N/A			